

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MARIAN ELDER,

Plaintiff,

v.

Case No. 20-10039

DANA NESSEL,
DAVID L. JORDON,

Defendants.

**OPINION AND ORDER GRANTING PLAINTIFF'S APPLICATION TO PROCEED
WITHOUT PAYING COSTS AND DISMISSING PLAINTIFF'S COMPLAINT**

Plaintiff Marian Elder has sued Defendants Dana Nessel and Judge David L. Jordon. (ECF No. 1.) Plaintiff moves to proceed without paying costs. (ECF No. 2.) The court will grant Plaintiff's motion. However, when a complainant proceeds in forma pauperis, "the court shall dismiss the case at any time if the court determines that . . . the action . . . fails to state a claim on which relief may be granted." 28 U.S.C. § 1915(e)(2)(B)(ii); *Benson v. O'Brian*, 179 F.3d 1014, 1015-16 (6th Cir. 1999) (citing 28 U.S.C. § 1915(e)(2)) ("Congress directed the federal courts to review or "screen" certain complaints sua sponte and to dismiss those that failed to state a claim upon which relief could be granted.").

Plaintiff sues Defendants for sedition, treason, assault and battery, aggravated assault, personal injury, discrimination, and restriction of free trade to prevent business ownership. (ECF No. 1, PageID.3.) Plaintiff asserts federal question jurisdiction but does not cite a federal statute or caselaw for his claims. Instead, Plaintiff alleges that

Defendant Judge Jordon required Plaintiff to wear a “slave collar” tether and that Judge Jordan was “protecting an organized crime ring” who discriminates against seniors. (ECF No. 1, PageID.4.) Plaintiff makes no mention of Defendant Nessel beyond naming her as a defendant.

There are no allegations or plausible inferences that Defendants violated an identifiable federal law. 28 U.S.C. § 1915(e)(2)(B)(ii); *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citations omitted) (“[A] complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.”). Instead, Plaintiff’s allegations are scandalous accusations or wholly irrelevant to a viable claim. For instance, Plaintiff includes no support for the idea that there is a private right of action for treason or sedition, nor do Plaintiff’s allegations relate to such a claim if it exists.¹ Plaintiff provides no basis for finding that assault and battery or aggravated assault are federal, as opposed to state, claims. Further, Plaintiff fails to allege that ordering a tether, the only potentially relevant allegation, was in any way outside Judge Jordon’s powers as a judge. *Serven v. Health Quest Chiropractic, Inc.*, 900 N.W.2d 671, 675 (Mich. Ct. App. 2017) (quoting *Diehl v. Danuloff*, 618 N.W.2d 83, 87-88 (Mich. Ct. App. 2000)) (“It is well settled that judges are accorded absolute immunity from liability for acts performed in the exercise of their judicial functions.”). Personal injury, restriction of free trade, and general “discrimination” are not laws or legal standards. To the extent

¹ For example, the federal statutory provision for treason, 18 U.S.C. § 2381, provides that “[w]hoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason.” None of Plaintiff’s allegations relate to going to war against the United States or providing aid to enemies of the United States.

that Plaintiff's suit relates to age discrimination, Plaintiff only alleges (in conclusory fashion) that a gang, not any Defendant, discriminated against seniors. Accordingly,

IT IS ORDERED that Plaintiff Marian Elder's Application to Proceed Without Paying Costs (ECF No. 2) is GRANTED.

IT IS FURTHER ORDERED that Plaintiff's complaint (ECF No. 1) is DISMISSED for failure to state a claim.

s/Robert H. Cleland /
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: January 27, 2020

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, January 27, 2020, by electronic and/or ordinary mail.

s/Lisa Wagner /
Case Manager and Deputy Clerk
(810) 292-6522

S:\Cleland\Cleland\JUDGE'S DESK\C2 ORDERS\19-12187.ELDER.Dismissal.RMK.docx